

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARVIN LEROY BASNER,

Defendant-Appellant.

UNPUBLISHED

August 20, 2002

No. 233457

Iosco Circuit Court

LC No. 00-004102-FC

Before: White, P.J., and Neff and Jansen, JJ.

PER CURIAM.

Defendant appeals as of right his convictions of criminal sexual conduct in the first degree (CSC I), the victim being under thirteen years of age, MCL 750.520b(1)(a), and criminal sexual conduct in the second degree (CSC II), the victim being under thirteen years of age, MCL 750.520c(1)(a), entered after a jury trial. We affirm.

Defendant was charged with two counts of CSC I arising out of allegations that on May 19, 2000 he penetrated complainant's vagina with his finger and forced her to commit fellatio on him. Complainant was seven years old at the time. Complainant's mother testified that on May 19, 2000 defendant babysat complainant after school while she took her other children to the dentist. Complainant testified that on a day when her mother and siblings went to the dentist defendant took her for a ride to the woods. She stated that defendant stuck his finger in her vagina and forced her to perform fellatio on him.

A state police trooper testified that initially, complainant told her that defendant touched her vaginal area outside her clothing. Subsequently, complainant reported that defendant penetrated her vagina with his finger. Defendant testified and denied complainant's allegations. He did not recall May 19, 2000, and did not recall babysitting for complainant. The jury found defendant guilty of one count of CSC I and one count of CSC II as a lesser included offense of the count of CSC I.

In reviewing a sufficiency of the evidence question, we view the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could conclude that the elements of the offense were proven beyond a reasonable doubt. We do not interfere with the jury's role of determining the weight of the evidence or the credibility of witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992); *People v Warren*, 228 Mich App 336, 343; 578 NW2d 692 (1998), modified 462 Mich 415; 615 NW2d

691 (2000). A trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

A person is guilty of CSC I if he engages in sexual penetration with another person who is under thirteen years of age. MCL 750.520b(1)(a). “Sexual penetration” includes any “intrusion, however slight, of any part of a person’s body or of any object into the genital or anal openings of another person’s body.” MCL 750.520a(1). A person is guilty of CSC II if he engages in sexual contact with a person who is under thirteen years of age. MCL 750.520c(1)(a). “Sexual contact” is defined as touching that can “reasonably be construed as being for the purpose of sexual arousal or gratification.” MCL 750.520a(k).

Defendant argues that insufficient evidence was produced to support his convictions. He asserts that complainant’s testimony was inherently incredible, and that complainant’s mother’s testimony regarding various details was inconsistent. We disagree and affirm defendant’s convictions. Given the lack of physical evidence, this case was a credibility contest between defendant and complainant. The testimony of a complainant in a CSC case need not be corroborated. MCL 750.520h. Inconsistencies in the testimony given by complainant and her mother were not material to the question of whether the offenses occurred. Complainant clearly testified that the charged incidents occurred.

The jury was charged with the task of weighing the credibility of the witnesses and deciding what testimony to believe and what testimony to reject, and was instructed that it could consider a witness’s age and maturity when deciding whether to believe the person. The jury was entitled to accept complainant’s testimony and to reject that given by defendant. *Warren, supra*. Viewed in a light most favorable to the prosecution, the evidence was sufficient to support defendant’s convictions. *Wolfe, supra*.

Affirmed.

/s/ Helene N. White
/s/ Janet T. Neff
/s/ Kathleen Jansen